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July 17, 1996

Lawrence M. Noble, Esquire
Office of General Counsel
Federal Election Commission
999 E St., N.W.
6th Floor
Washington, D.C. 20463

RE: MUR 4395
Clinton/Gore '96 Primary Committee, Inc. and Joan Pollitt, as treasurer

Dear Mr. Noble:

This is the response of the Clinton/Gore '96 Primary Committee (the "Committee") and Joan Pollitt, as Treasurer, to the complaint filed in the above-captioned MUR. As more fully explained below, the Committee respectfully requests that the Federal Election Commission (the "Commission" or "FEC") find no reason to believe that any violation of the Federal Election Campaign Act of 1971, as amended, (the "Act") occurred and close this matter.

Statement of the Case

Complainant alleges that President Clinton's official international travel in the month of April 1996 was "political travel" and, as such, should have been an expense paid for by the Committee. Specifically, complainant challenges the official nature of President Clinton's stops in South Korea, Japan and Moscow which occurred between April 15 and April 21, 1996.

An officeholder, while a candidate for re-election, may continue in the performance of his/her duties.

Unquestionably, and as the Commission has long recognized, a candidate may perform his/her duties as a public officeholder without such activity being found to be campaign related. In FEC Advisory Opinion ("AO") AO 1994-15, the Commission concluded that events in which a Federal officeholder participates in the performance of his/her duties as an officeholder are not campaign-related simply because the officeholder may be a candidate for election or re-election to Federal office, and payments associated with the expenses of such events are not contributions to that officeholder's campaign, absent any campaign related activity at that event. (*See* the Federal Election Campaign Finance Guide (CCH) ¶ 6118).¹ Consequently, and contrary to the

¹ *See* also AO 1992-6 where the Commission concluded that a candidate's speech on a college campus during an election year did not constitute campaign activity.

complainant's allegations, there is no presumption that all activity associated with the performance of one's duty as an officeholder is unequivocally campaign related.

International travel by President Clinton is unquestionably associated with the resolution of foreign policy issues and the advancement of this nation's international interests, a requisite job duty of the President of the United States, as held in United States v. Curtiss-Wright Export Corp., 299 U.S. 304 (1936). The primary purpose of international travel is to ensure the well-being of the nation, a function the American people expect the President to perform. The FEC has never determined that any secondary political benefit which the President may derive from international travel is sufficient to transform the official character of the events, in the absence of "campaign activity".

To our knowledge, no FEC audit has ever concluded that an incumbent President's official international travel constituted campaign activity. The President, as an officeholder and government leader, has continuing responsibilities of office, regardless of his status as a candidate for re-election.

President Clinton did not participate in any campaign activity during the course of any international travel in April 1996.

The Commission's recently revised travel regulations make clear that travel expenses incurred for any travel stop during which "campaign activity" occurs must be paid with campaign funds. Nothing in these new regulations precludes a candidate, who is also an officeholder, from engaging in official travel, either jointly with or separate from campaign trips. These new regulations define, as the determining factor, campaign activity to include soliciting, making, or accepting contributions, and expressly advocating the election or defeat of a candidate. Other factors, including the setting, timing and statements or expressions of the purpose of an event and the substance of the remarks or speech made, will also be considered in determining whether a stop is campaign related. 11 C.F.R. § 9034.7 (b)(2).

The trip at issue here was exclusively official travel. The President's stops in South Korea, Japan and Moscow were made at the request of foreign leaders with input from the U.S. State Department. The President's commitment to attend, as well as the planning and determination of issues to be discussed, were developed in advance of the election year. The purpose of his trip was the advancement of U.S. foreign policy.

Nothing which could be considered "campaign activity" under 11 C.F.R. § 9034.7(b)(2) occurred on any of these stops. At no time did President Clinton engage in soliciting, making, or accepting contributions while in South Korea, Japan or Moscow. No fundraisers were held on this trip. See Affidavit of Joan Pollitt, Treasurer, attached as Exhibit 1.

In addition, President Clinton did not make any remarks that expressly advocated his election or the defeat of any other candidate. Complainant fails to cite or refer to any statement by the President which expressly advocates the election or defeat of any candidate, or even refers to the presidential campaign, because there simply were none. Similarly, complainant includes a statement by Mike McCurry which contains no express advocacy and refers solely to internal Russian politics.

Moreover, the setting and timing, and the statements made at and expressions of purpose of each event, clearly indicate the focus of the trip was the business of governing and not the campaign. The activities which occurred included meetings with foreign leaders, dignitaries and citizens, attending state events, and observing and touring U.S. military installations and foreign sites of military, economic or cultural significance to the relationships among these nations. None of these activities meet the definition of "campaign activity".

Each of the specific events cited by the Complainant is official, rather than campaign, in nature, and complainant cites absolutely no evidence to the contrary. These events included (1) a meeting with the South Korean President to discuss peace on the Korean peninsula, (2) a formal ceremony in Japan at the official Japanese state guest house, (3) remarks in Japan pledging to cooperate closely and to keep American troops in the Asian-Pacific region, and (4) an eight nation summit in Russia to combat nuclear smuggling, accidents and terrorism.


Accordingly, it is easily concluded that all such events were purely official, and complainant offers not one iota of evidence to the contrary. Each event had its own purpose specific to the foreign policy of both participating nations. Such activity fits squarely within the powers vested in the office of President of the United States (See U.S. Const. art. II, §2). The President of the United States has the derivative power to direct U.S. foreign policy with regard to diplomacy and trade issues, among others. The President exercised these powers while traveling to South Korea, Japan and Moscow.

Complainant offers no support for his allegations, other than to conclude that the trip in question was political. Such an allegation is baseless and must be dismissed in the absence of specific "campaign activity" within the meaning of 11 C.F.R. § 9034.7(b)(2). Because there was none, the Committee need not pay for this international trip.

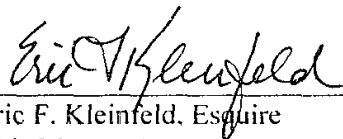
Conclusion

In conclusion, because the travel complained of did not involve "campaign activity" under the Act, the complaint in this matter should be dismissed forthwith. The Committee respectfully requests that the Commission find no reason to believe that any violation of the Act or of the Commission's regulations occurred and close the file in MUR 4395.

Sincerely,



Lyn Utrecht, Esquire
General Counsel
Clinton/Gore '96 Primary Committee, Inc.



Eric F. Kleinfeld, Esquire
Chief Counsel
Clinton/Gore '96 Primary Committee, Inc.

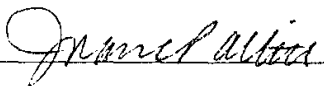
AFFIDAVIT OF JOAN POLLITT

I, Joan Pollitt, hereby declare the following:

1. I am the Treasurer of the Clinton/Gore '96 Primary Committee, Inc. (the "Committee") and I am responsible for the duties prescribed to me under the Federal Election Campaign Act of 1971 at 2 U.S.C. § 431 *et seq.* As part of these duties, I am responsible for attributing each travel or event related expense to the specific Committee event and Principal.
2. According to Committee records, President Clinton traveled internationally between April 15 and April 21, 1996 to the nations of Japan, South Korea and Russia.
3. No Committee fundraisers were held in Japan, South Korea or Russia, either during the trip or at any other time. No contributions to the Committee were solicited, received or accepted at events occurring on this trip.
4. President Clinton did not participate in any campaign events between April 15 and April 21, 1996, nor did any Committee events or other activity occur on his official trip to Japan, South Korea and Russia.

I submit, under penalty of perjury, that the foregoing information is true and accurate to the best of my knowledge.

Executed this 16 day of July, 1996.



Joan Pollitt